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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

KIMBERLY YANG and GABRIELA
SOLANO, individually and on behalf of
all others similarly situated,

Plaintiffs,

vs.

LIFETECH RESOURCES LLC,

Defendant.

Case No. 4:19-cv-05811-HSG

CLASS ACTION

**Declaration of Stephen R. Smerek in
support of Defendant Lifetech
Resources LLC's Administrative
Motion for Leave To Exceed Page Limit
for Motion To Compel Arbitration,
Dismiss the First Amended Complaint,
and/or Strike Class Allegations**

[Pursuant to Civ. L.R. 7-11]

Place: Courtroom 2 (Oakland Division)

Judge: Hon. Haywood S. Gillman, Jr.

FAC Filed: January 6, 2020

Complaint Filed: September 17, 2019

Trial Date: TBD

DECLARATION OF STEPHEN R. SMEREK

I, Stephen R. Smerek, hereby declare as follows:

1. I am over the age of eighteen, and I am an attorney at law duly licensed to practice in the State of California and before this Court. I am a partner at the law firm of Foley & Lardner LLP, counsel of record for Defendant Lifetech Resources LLC (“Lifetech”). I am one of the attorneys principally responsible for the representation of Lifetech in this action. I make this Declaration based upon my own personal knowledge and am competent and willing to testify, under oath, to the truth of the matters asserted herein if called upon to do so.

2. I submit this Declaration in support of Lifetech’s Motion for Administrative Relief (“Administrative Motion”), which seeks leave from this Court to exceed the limitation of 25 pages for briefs and memoranda set forth in Civil Local Rules 7-2(b) and 7-4(b) regarding Lifetech’s Motion to Compel Arbitration, Dismiss the First Amended Complaint, and/or Strike Class Allegations (“Motion to Dismiss”).

3. Lifetech requests up to an additional five (5) pages for the Memorandum in support of its Motion to Dismiss, which will not exceed thirty (30) pages in total if the Court grants this Administrative Motion.

4. On January 15, 2020, I reached out to Plaintiffs’ counsel via email to inquire whether Plaintiffs would stipulate to increase the page limit for Lifetech’s Motion to Dismiss up to 5 pages (from 25 to 30 pages) with a reciprocal extension for Plaintiffs’ opposition. Plaintiffs’ counsel rejected this proposal or any extension of the page limit.

5. Lifetech’s Motion to Dismiss is currently due on Monday, January 20, 2020. (D.I. 23.) Although the deadline to file is also a Court holiday (*see* Fed. R. Civ. P. 6(a)(6)), Lifetech still intends to file pursuant to the briefing schedule agreed to by the Parties and ordered by the Court.

6. Lifetech’s original memorandum in support of its prior Motion to Compel Arbitration, Dismiss the Complaint, or Strike the Class Allegations—which essentially encompassed three different motions—met the page limit of 25 pages. (D.I. 17)

DECLARATION OF STEPHEN R. SMEREK IN SUPPORT OF DEFENDANT’S
ADMINISTRATIVE MOTION TO EXCEED PAGE LIMITATION FOR MOTION TO DISMISS

7. The FAC does not include any change to the substantive allegations; thus, the main substance of Lifetech's new motion is likewise materially identical to the original motion. However, the newly added plaintiff, Gabriela Solano, did not make her purchase online at Nordstrom.com (unlike Plaintiff Yang, who made her purchase online over two years ago). Thus, Lifetech requests up to five additional pages to address the impact of the new named plaintiff on Lifetech's motion to compel arbitration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 17, 2020, in Los Angeles, California.

/s/ Stephen R. Smerek

Stephen R. Smerek